

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	S9: 19Cr0463 (DLC)
	:	
-v-	:	<u>ORDER</u>
	:	
BENZION ZIRKIND,	:	
	:	
Defendant.	:	
	:	
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DENISE COTE, District Judge:

Defendant Benzion Zirkind, who is out on bail, is represented by Zaki Tamir, Esq. The defendant's trial is scheduled to begin on December 7, 2020. The defendant's pretrial motions are due September 4, 2020; the Government's opposition is due September 11.

On August 3, 2020, Matthew D. Myers, Esq. filed a notice of appearance. Before Mr. Tamir is relieved or an appearance by Mr. Myers is accepted, the Court must make inquiry of the defendant and counsel. Accordingly, it is hereby

ORDERED that a conference is scheduled for Friday, **August 14, 2020** at **10:00am.** in which Mr. Tamir, Mr. Myers, the defendant, and counsel for the Government all must participate.

IT IS FURTHER ORDERED that the Government shall provide Mr. Tamir with a copy of this Order.

IT IS FURTHER ORDERED that defense counsel shall respond to the following two questions by Monday, **August 10, 2020** at **noon**:

- 1) Does the defendant prefer (1) an in-court proceeding in Courtroom 18B, 500 Pearl Street, (2) a videoconference via the Skype for Business platform, or (3) an audio-only telephone conference?
- 2) If the defendant prefers a videoconference proceeding but the Skype for Business platform is not reasonably available to the defendant, does the defendant prefer (1) an in-court proceeding in Courtroom 18B, 500 Pearl Street or (2) an audio-only telephone conference?

To determine whether Skype for Business is reasonably available to the defendant, defense counsel and the defendant shall paste the following link into their browsers:

[https://meet.lync.com/fedcourts-nysd/anthony\\_sampson/MV7WLJTU](https://meet.lync.com/fedcourts-nysd/anthony_sampson/MV7WLJTU).

To use this link, you may need to download software to use Skype's videoconferencing features.<sup>1</sup> Users who do not have an Office 365 account may use the "Join as Guest" option. When you successfully access the link, you will be placed in a "virtual lobby."

For further instructions concerning Skype for Business and general guidelines for participation in video and teleconferencing, visit <https://nysd.uscourts.gov/covid-19-coronavirus>. If you intend to join the conference from an Apple


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<sup>1</sup> See Microsoft, Install Skype for Business (last visited Apr. 29, 2020), <https://support.office.com/en-us/article/install-skype-for-business-8a0d4da8-9d58-44f9-9759-5c8f340cb3fb>.

device, you should ensure that you are running a version of Skype for Business that was published on or after April 28, 2020.<sup>2</sup> Users running earlier versions have encountered an issue in which Skype for Business does not receive any inputs from the computer's microphone, and they cannot be heard by other participants.

If the defendant prefers a videoconference or telephone conference proceeding, please complete and submit the written consent form attached to this Order if it is feasible to do so.

Dated: New York, New York  
August 6, 2020

  
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DENISE COTE  
United States District Judge

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<sup>2</sup> See, e.g., Microsoft, Skype for Business on Mac (last visited May 5, 2020), <https://www.microsoft.com/en-us/download/details.aspx?id=54108>.

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UNITED STATES OF AMERICA

-v-

BENZION ZIRKIND,  
Defendant.

-----X

**WAIVER OF RIGHT TO BE PRESENT AT  
CRIMINAL PROCEEDING**

**19-CR-463(DLC)**

Conference

I have been charged in an indictment with violations of federal law. I understand that I have a right to be present at all conferences concerning this indictment that are held by a judge in the Southern District of New York, unless the conference involves only a question of law. I understand that at these conferences the judge may, among other things, 1) set a schedule for the case including the date at which the trial will be held, and 2) determine whether, under the Speedy Trial Act, certain periods of time should be properly excluded in setting the time by which the trial must occur. I have discussed these issues with my attorney and wish to give up my right to be present at the conferences. By signing this document, I wish to advise the court that I willingly give up my right to be present at the conferences in my case for the period of time in which access to the courthouse has been restricted on account of the COVID-19 pandemic. I request that my attorney be permitted to represent my interests at the proceedings even though I will not be present.

Date:

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
Print Name

I hereby affirm that I am aware of my obligation to discuss with my client the charges contained in the indictment, my client's rights to attend and participate in the criminal proceedings encompassed by this waiver, and this waiver form. I affirm that my client knowingly and voluntarily consents to the proceedings being held in my client's absence. I will inform my client of what transpires at the proceedings and provide my client with a copy of the transcript of the proceedings, if requested.

Date:

\_\_\_\_\_  
Signature of Defense Counsel

\_\_\_\_\_  
Print Name

**Addendum for a defendant who requires services of an interpreter:**

I used the services of an interpreter to discuss these issues with the defendant. The interpreter also translated this document, in its entirety, to the defendant before the defendant signed it. The interpreter's name is:

\_\_\_\_\_.

Date:

\_\_\_\_\_  
Signature of Defense Counsel

**Accepted:**

\_\_\_\_\_  
Signature of Judge  
Date: